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CBS News Chief Hints at Doubt On Libel Case

By PETER W. KAPLAN

The president of CBS News, Edward M. Joyce, told a Rotary Club gathering in Maine on Tuesday that he expected the network would lose Gen. William C. Westmoreland's \$120 million libel suit at the jury level but would win on appeal.

Yesterday, however, he denied that he felt CBS was in a poor position to win in trial and said, "We obviously feel very confident about our case."

Addressing a Rotary Club gathering in Ellsworth, Me., on Tuesday, Mr. Joyce said: "If you follow libel trials in this country, you know that juries tend to award cases to the plaintiff, and in equal proportions they are overturned either by the judge or in the appeal process. We feel very confident that that will be the outcome of the Westmoreland case."

Reached in New York yesterday, Mr. Joyce said that his intention was not to say that CBS would lose the case at the jury level and that he was "just speaking in general about libel."

"What was said was that the trend of jury trials in libel cases is not an encouraging one," he said. "Juries and awards are going in the trend of an adverse decision. We feel very sound about our case and feel no doubt about the fact that under the circumstances we expect to prevail."

Mr. Joyce was not the first CBS official to express a feeling that the network has less than complete confidence the Westmoreland jury will decide in its favor.

Speaking to broadcasters in San Antonio on Oct. 30, Tony Malara, the president of CBS-TV, said: "We think we are going to win, but probably not in the jury trial. After all, Westmoreland is a national hero. We hope to win in the appeals process."

Mr. Malara, who later contended that his remarks had been "reported out of context," said, as Mr. Joyce did, that he was referring to the number of libel judgments that are reversed by appeals courts. As Mr. Joyce did, Mr. Malara said that "Westmoreland is a national hero" and that "CBS stands by this broadcast and we expect to win this case."

'Some Sadness'

Mr. Joyce said CBS went "into this with respect for the general and with some sadness about all of this."

He went on to say that "in our judgment the general was approached by a number of people who tend to fund libel cases, and they said to him, in effect, 'General, you've got to stand up and fight.'"

"Well, here is an honorable man who fought a difficult and unpopular war," Mr. Joyce said. "He came back to his own state of South Carolina, ran for office and was rejected by the voters. Along comes pesky CBS News and does this broadcast. I can understand why he's angry. I'm sad that he's taken it this far. We believe that ultimately we will prevail in this case."

According to the Libel Defense Resource Center, more than 90 percent of all libel suits are decided in favor of news organizations through dismissals before trial or judicial review. Of the 63 libel cases suits that made it to trial from mid-1982 to mid-1984, it says, news organizations lost more than half.

Richard Dudman, a former Washington bureau chief for The St. Louis Post-Dispatch, whose wife, Helen Sloane Dudman, owns a CBS affiliate radio station in Ellsworth, Me., was the host of the Rotary Club evening. Mr. Dudman said he thought Mr. Joyce had left the impression that "it was likely, because of the history of libel cases, they would have to rely on either the judge or an appeal."